

1 BEFORE THE  
2 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY  
3

4 IN THE MATTER OF:

5 B.J. USED TIRE AND RUBBER RECYCLING,  
6 INC., PROPERTY OWNER AND OPERATOR

7 TPID NO: 1001094

8 ASSESSOR PARCEL NO: 0236-091-04-0000  
9

Cleanup and Abatement

Order: No. 2011-010993-CAO

Public Resources Code Section 42845

10  
11 TO: B.J. Used Tire and Rubber Recycling, Inc., Property Owner/Operator 1170 Hastings  
12 Ranch Drive, Pasadena, CA 91107:

13 **PLEASE TAKE NOTICE THAT:**

14 B.J. Used Tire and Rubber Recycling is a Waste Tire Facility (WTF) as defined in Public  
15 Resources Code (PRC) section 42808 and is located at 14212 Santa Ana Avenue, Fontana,  
16 CA 92337, (Assessor Parcel No 0236-091-04-0000); and

17 The California Integrated Waste Management Board (CIWMB) which is now the  
18 Department of Resources Recycling and Recovery (CalRecycle) has authority to act as the  
19 enforcement agency for Waste Tire Facilities pursuant to PRC Section 42800 et seq., and is  
20 the enforcement agency for this waste tire site. CalRecycle succeeded to CIWMB's authority  
21 on January 1, 2010 pursuant to PRC section 40401(a)(1); and

22 The Operator has stored in excess of 4,999 waste tires on said property without  
23 obtaining a "Major Waste Tire Facility Permit," in violation of PRC section 42824; and

24 CalRecycle inspected this site on January 12, 2011 and determined that 5,000 or more  
25 waste tires were being stored on site; and

26 CalRecycle issued a Notice of Violation to the Property Owner/Operator on January 12,  
27 2011 requiring the waste tires in excess of the permitted 4,999 to be removed by March 12,  
28

California Department of Resources Recovery and Recycling v. B. J. Used Tire and Rubber Recycling, Inc.,

CLEANUP AND ABATEMENT ORDER

1 2011, and to cease and desist from storing in excess of 4,999 waste tires on site without first  
2 obtaining a major Waste Tire Facility Permit; and

3 CalRecycle inspected this site on April 12, 2011 and determined that 5,000 or more  
4 waste tires were still being stored on site in violation of the existing minor Waste Tire Facility  
5 Permit; and

6 The Operator of this site has not acquired a major waste tire facility permit for this site;  
7 and

8 This site is in violation of Title 14, California Code of Regulations (CCR), section  
9 18420(a) - Applicability, which requires every operator of a major or minor waste tire facility  
10 (WTF) that stores, stockpiles, accumulates or discards waste tires to acquire a Permit; and

11 This site is in violation of Title 14, CCR, section 18423 - Filing of Application, which  
12 requires every operator of a major or minor WTF to submit a completed Permit application; and

13 Since this site is deemed a "Waste Tire Facility" under PRC section 42808, this site is  
14 also subject to the same safety and security measures to which a permitted facility is subject.  
15 These requirements are set forth in "Exhibit A" to this order; and

16 CalRecycle has the authority to order WTF operators who are in violation of the  
17 aforementioned law to clean up waste tire piles, abate the effects thereof, or otherwise  
18 remediate a case of threatened pollution or nuisance pursuant to PRC section 42845(a); and

19 Where there is no identified "Operator," the Operator shall mean the Property Owner;  
20 and

21 CalRecycle has the authority to seek administrative penalties of not less than five  
22 hundred dollars (\$500) and up to ten thousand dollars (\$10,000) for each violation of a  
23 separate provision or, for continuing violations, for each day that violation continues, against  
24 any person who violates any provision of this chapter, or any permit, rule, regulation, standard,  
25 or requirement issued or adopted pursuant to this chapter as provided in PRC section 42850  
26 and 42850.1(b)(2);

1 **THEREFORE, PURSUANT TO PRC SECTION 42845, YOU ARE ORDERED TO:**

- 2 1. Cease violation of waste tire storage laws, including the creation of illegal waste  
3 tires facilities pursuant to Public Resources Code section 42808.
- 4 2. Remove all waste tires in excess of the permitted amount of 4,999 from the  
5 premises within 30 days from the date of service of Cleanup and Abatement  
6 Order, in accordance with the following waste tire removal schedule.

7 a. Waste Tire Removal Schedule

- 8 i. Waste tires shall be removed from the premises. CalRecycle must  
9 approve the destinations of the tires to ensure that a registered waste  
10 tire hauler legally transports them to an approved facility.
- 11 ii. All waste tires (whole and/or tire equivalents) shall be removed by a  
12 registered waste tire hauler within 30 days from the date of service of  
13 Cleanup and Abatement Order. Comprehensive Trip Log (CTL)  
14 manifest form CIWMB 203 must accompany each load and copies of  
15 the CTL forms must be submitted to CalRecycle within 45 days from  
16 the date of service of Cleanup and Abatement Order. Failure to comply  
17 with this provision may result in penalties pursuant to PRC section  
18 42961.5 and 42962.
- 19 3. Cease and Desist from storing 5,000 or more waste tires, including used tires not  
20 stored in conformance with PRC Section 42806.5, without first obtaining a major  
21 Waste Tire Facility Permit from CalRecycle.

22 **PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO PRC SECTION 42845,**  
23 **42850 and 42850.1(b)(2):**

24 If the above actions are not completed or complied with by the specified dates,  
25 CalRecycle may petition the superior court for injunctive relief to enforce this order and for civil  
26 penalties in the amount of not less than \$500 and up to \$10,000 per day for each violation  
27 pursuant to PRC section 42845, 42850 and 42850.1(b)(2). Liability for civil penalties may be  
28

1 imposed in a civil action or may be imposed administratively pursuant to PRC section 42850 et  
2 seq.

3 Pursuant to PRC section 42846.5, CIWMB or its contractors may subsequently enter  
4 your property for the purposes of abatement or remediation without your consent if such an  
5 order setting liability is issued.

6 Failure to remove all of the tires by the required date may result in CalRecycle  
7 expending available funds to perform any clean-up, abatement, or remedial work required  
8 under the circumstances set forth in PRC section 42845 et seq.

9 You have ten (10) days from the date of service of this order to file a petition with  
10 CalRecycle raising any substantial issues that are appropriate for review. CalRecycle will  
11 review the petition and respond within thirty (30) days from the date of receipt by CalRecycle.  
12 Regardless of whether you file a petition, the above actions, ordered pursuant to PRC section  
13 42845, must be completed as ordered.

14 If CalRecycle expends funds to perform any clean-up, abatement, or remedial work,  
15 CalRecycle may seek cost reimbursement from the operator or property owner pursuant to  
16 PRC section 42847.

17 Moreover, funds so expended by CalRecycle constitute a lien upon the real property  
18 owned by any responsible party that is subject to the remedial action, pursuant to PRC section  
19 42847.5.

20 Nothing in this Cleanup and Abatement Order shall constitute or be construed as a  
21 satisfaction or release from liability for any conditions or claims arising as a result of past,  
22 current, or future operations of Operator and/or Property Owner. Notwithstanding compliance  
23 with the terms of this Order, Operator and/or Property Owner may be required to take further  
24 actions as are necessary to protect public health or welfare or the environment.

25 CalRecycle shall not be liable for injuries or damages to persons or property resulting  
26 from acts or omissions by Operator and/or Property Owner or related parties in carrying out  
27 activities pursuant to this Order, nor shall CalRecycle be held as a party to any contract  
28


1 entered into by Operator and/or Property Owner or their agent(s) in carrying out activities  
2 pursuant to the Order.

3 This Clean Up and Abatement Order does not relieve the Operator or Property Owner  
4 from complying with all other local, state, and federal requirements.

5 This Clean Up and Abatement Order may only be amended in writing by an appropriate  
6 representative of CalRecycle.

7 If you have any questions concerning this Clean Up and Abatement Order, you may  
8 contact Vance Tracy of my staff at (951) 782-4989.

9  
10 Dated this 6<sup>th</sup> day of June, 2011

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12   
13 Lorraine Van Kekerix  
14 Acting Deputy Director  
15 Compliance and  
16 Enforcement Division  
17 Department of Resources  
18 Recycling and Recovery  
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## EXHIBIT A

### 10 PRC 42824 Operator Authorized by Permit

At the time of the January 12 and April 12, 2011 inspections, the waste tire facility operator did not have a major permit issued by the CalRecycle and was storing approx. 6,485 waste tires and 8,305 waste tires, respectively at the site. Pursuant to this section, the CalRecycle shall issue a major permit pursuant to the regulations once an application has been submitted and the facility is in compliance with applicable regulation and law. No application for a major Waste Tire Facility Permit has been filed.

### 17351 Fire Prevention Measures.

During the January 12 and April 12 inspections, the required 2.5 gallon water extinguisher was missing and unavailable.

(a) Communication equipment shall be maintained at all facilities, if they are staffed by an attendant, to ensure that the site operator can contact local fire protection authorities in the event of fire.

(b) Adequate equipment to aid in the control of fires must be provided and maintained at the facility at all times. At a minimum the following items shall be maintained on site and in working order at all times:

- (1) One (1) dry chemical fire extinguisher;
- (2) One (1) two and one-half gallon water extinguisher;
- (3) One (1) pike pole at least 10 feet in length; and
- (4) One (1) round point and one (1) square point shovel.

(c) An adequate water supply shall be available for use by the local fire authority. The water supply shall be capable of delivering at least 1,000 gallons per minute for a duration of at least three hours and at least 2,000 gallons per minute for a duration of at least three hours if the sum of altered plus whole waste tires exceeds 10,000.

(d) All of the requirements of subsections (b) and (c) shall apply unless the local fire authority having jurisdiction over a particular facility determines that a different requirement is necessary or adequate to meet the intent of these regulations for fire control and the protection of life and property. This may include the availability of earth moving equipment or other approved means to control the tire fire. Any change in, or any new, local fire authority requirements that affect the requirements in this Article shall be reported to the Board by the operator within 30 days after their effective date. Any requirements approved by the local fire authority shall be subject to Board concurrence at the time of issuance or renewal of the permit.

### 17352 Facility Access and Security

- (a) Signs – a sign shall be posted at the facility entrance stating the name of the operator, if the facility receives tires from sources other than the operator of the site, operating hours, and site rules.
- (b) Attendant – An attendant shall be present when the facility is open for business if the facility receives tires from persons other than the operator of the facility.
- (c) Access – An access road to the facility must be maintained passable for emergency equipment and vector control vehicles at all times. Unauthorized access to the waste tire storage area of the facility must be strictly controlled through the use of industrial fencing and gates, or other means of access control.

### **17353 Vector Control Measures.**

Pursuant to this section:

(a) All waste tires shall be stored in a manner that prevents the breeding and harborage of mosquitoes, rodents, and other vectors by any of the following means:

- (1) Cover with impermeable barriers other than soil to prevent entry or accumulation of precipitation; or
- (2) Use of treatments or methods to prevent or eliminate vector breeding as necessary, provided the control program is approved as appropriate and effective by the local vector control authority, if such authority exists. If no local vector control authority exists, the local health department and the State Department of Health Services shall approve the vector control plan. Any control program approved by the local vector control authority shall be subject to Board concurrence at the time of issuance or renewal of the permit.

### **17354 Storage of Waste Tires.**

During the January 12 and April 12, 2011 inspections waste tires were stored outdoors next to and within 10 feet of the perimeter fence and property boundary, tires were stored next to and within 40 feet of flammable materials, including tire inner tubes and wooden pallets, waste tires were stored in an area of greater than 5,000 contiguous feet and tires with rims still attached were being stored. Pursuant to this section:

(a) Except as provided in subsection (c) waste tires shall be restricted to individual tire storage units that do not exceed 5,000 square feet of contiguous area. Any pile shall not exceed 50,000 cubic feet in volume or 10 feet in height. Tire storage units shall not exceed 6 feet in height when within 20 feet of any property line. Waste tires shall not be located within 10 feet of any property line. The minimum distance between waste tires and structures that are located either on-site or off-site shall be as specified in Table I.

(b) Except as provided in subsection (c) waste tires shall be separated from vegetation and other potentially flammable materials by no less than 40 feet. Accessible fire lanes with a minimum width as specified in Table I shall be provided between tire storage units. Fire lanes shall be kept free of flammable or combustible material and vegetation. Access to fire lane(s) for emergency vehicles must be unobstructed at all times. Open flames, blowtorches, or highly flammable materials, including but not limited to, tire inner tubes, are prohibited within 40 feet of a waste tire pile.

<b>Table I</b>			
<b>Representative Exposure Separation Distances (Ft.)</b>			
<b>Length of Exposed Face</b>	<b>Tire Storage Pile Height</b>		
	<b>6</b>	<b>8</b>	<b>10</b>
25	50	56	62
100	84	100	116
150	99	117	135
200	111	130	149
250	118	140	162

(c) All of the requirements in subsections (a) and (b) shall apply to the storage of waste tires unless, for any particular requirement, the local fire authority having jurisdiction over a particular facility determines that a

different requirement is necessary or adequate to meet the intent of these regulations for the prevention of fire and the protection of life and property. Any change in, or any new, local fire authority requirements that affect the requirements in this Article shall be reported to the Board by the operator within 30 days after their effective date. Any requirements approved by the local fire authority shall be subject to Board concurrence at the time of issuance or renewal of the permit.

(d) Surface water drainage shall be directed around and away from the waste tire storage area.

(e) Waste tires at existing waste tire facilities shall not be stored on surfaces with grades that will interfere with fire fighting equipment or personnel unless mitigation measures have been approved in writing by the local fire authority, or a fire safety engineer registered by the State of California. Measures established by a fire safety engineer shall be subject to approval by the local fire authority.

(f) New waste tire facilities shall not:

(1) Be sited in any area where they may be subjected to immersion in water during a 100-year storm unless the operator demonstrates to the Board that the facility will be designed and operated so as to prevent waste tires from migrating off-site; or

(2) Be located on sites with grades or other physical features that will interfere with fire fighting equipment or personnel.

(g) Tires must be removed from rims immediately upon arrival at the facility.

(h) The site shall be designed and constructed to provide protection to bodies of water from runoff of pyrolytic oil resulting from a potential tire fire.



## CALIFORNIA WASTE TIRE LAWS & REGULATIONS

### Permit Requirements

- ☐ **Public Resources Code, Division 30, Chapter 16 (PRC), section 42824-Major Waste Tire Facility Permit**  
On and after September 1, 1994, it is unlawful to direct or transport waste tires to a major waste tire facility or to accept waste tires at a major waste tire facility unless the operator has obtained a major waste tire facility permit.
- ☐ **PRC 42834-Minor Waste Tire Facility Permit**  
On and after July 1, 1994, it is unlawful to direct or transport waste tires to a minor waste tire facility or to accept waste tires at a minor waste tire facility unless the operator has obtained a minor waste tire facility permit.
- ☐ **PRC 42850(a)-Complies with Terms of Permit**  
(a) Any person who negligently violates any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is liable for a civil penalty of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000), for each violation of a separate provision or, for continuing violations, for each day that the violation continues.
- ☐ **Title 14 California Code of Regulations (14 CCR) section 18420(a)-Applicable for Permit**
  - (a) The operator of a waste tire facility shall acquire a waste tire facility permit in accordance with the requirements of this Chapter and PRC section 42808, unless any of the following conditions exist:
    - (1) The waste tires are stored or disposed at a permitted solid waste disposal facility. The permit of the solid waste facility shall be revised pursuant to Public Resources Code (PRC) section 44014 and shall conform to the requirements of Division 7, Chapter 3, Article 5.5.
    - (2) The facility is using fewer than 5,000 waste tires for agricultural purposes and the waste tires have been rendered incapable of holding accumulations of water.
    - (3) The facility is storing fewer than 500 waste tires.
    - (4) The facility is a tire trading business and not more than 3,000 waste tires are kept on the premises.
    - (5) The facility is an automobile dismantler, as defined in Sections 220 and 221 of the Vehicle Code, who stores waste tires on the premises of the auto dismantler for less than 90 days if not more than 1,500 waste tires are ever accumulated on the dismantler's premises.
    - (6) The facility is a tire dealer who stores waste tires on the dealer's premises for less than 90 days if not more than 1,500 waste tires are ever accumulated on the dealer's premises.
  - (b) For purposes of determining the applicability of this Chapter 6, altered waste tires shall be counted as passenger tire equivalents (PTE).
  - (c) A "used tire dealer" is only authorized to lawfully accept used or waste tires without a waste tire facility permit if the used tire dealer is in compliance with Section 17225.820, Article 4.1, Chapter 3 and has fewer than 1500 waste tires in accordance with Section 42808(c).
- ☐ **14 CCR 18423-Filing Application for Permit**  
(a) Every operator of a new or existing major or minor waste tire facility shall submit to the Board a completed original and two (2) copies of the waste tire facility permit application, as specified in Article 4 of this Chapter.
- ☐ **14 CCR 18432-Operation Plan**
  - (a) The Operation Plan, as required by 18431(b) shall demonstrate conformance with the technical standards contained in 14 CCR, Division 7, Chapter 3, Article 5.5.
  - (b) The operator shall file amendments to the Operation Plan whenever necessary to keep the information contained in it current.
- ☐ **14 CCR 18433-Emergency Response Plan**
  - (a) The operator of the waste tire facility shall maintain a copy of the Emergency Response Plan at the facility. At the time of permit issuance the approved Emergency Response Plan shall be forwarded to the local fire authority by the permittee. The plan shall be revised as necessary to reflect any changes in the operations of the waste tire facility or requirements of the local fire authority. The local fire authority and the Board shall be notified of any changes to the plan within 30 days of the revision.
  - (b) The operator of the facility shall immediately notify the Board in the event of a fire or other emergency if that emergency has potential significant off-site effects. Within 30 days of any such emergency, the operator shall submit to the Board a written report describing the cause(s) of the emergency, the results of actions taken, and an analysis of the success or failure of these actions.

## CALIFORNIA WASTE TIRE LAWS & REGULATIONS:

### *Tire Storage & Disposal Standards*

- ☐ **Title 14 California Code of Regulations (14 CCR) section 18447-Record Keeping**  
Copies of all records required to be kept under this Chapter shall be retained by the operator for three (3) years at the place of business and shall be made available at the site during normal business hours for inspection and photocopy by any representative of the Board or any individual authorized by the Board.
  
- ☐ **14 CCR 17351-Fire Prevention Measures**
  - (a) Communication equipment shall be maintained at all facilities, if they are staffed by an attendant, to ensure that the site operator can contact local fire protection authorities in the event of fire.
  - (b) Adequate equipment to aid in the control of fires must be provided and maintained at the facility at all times. At a minimum the following items shall be maintained on site and in working order at all times:
    - (1) One (1) dry chemical fire extinguisher;
    - (2) One (1) two and one-half gallon water extinguisher;
    - (3) One (1) pike pole or comparable pole at least 10 feet in length to separate burning from non-burning tires; and
    - (4) One (1) round point and one (1) square point shovel.
  - (5) One (1) dry chemical fire extinguisher with a minimum rating of 4A:40BC shall be carried on each piece of fuel-powered equipment used to handle waste tires;
  - (c) An adequate water supply shall be available for use by the local fire authority. The water supply shall be capable of delivering at least 1,000 gallons per minute for a duration of at least three hours and at least 2,000 gallons per minute for a duration of at least three hours if the sum of altered plus whole waste tires exceeds 10,000.
  - (d) All of the requirements of subsections (b) and (c) shall apply unless the local fire authority having jurisdiction over a particular facility determines that a different requirement is necessary or adequate to meet the intent of these regulations for fire control and the protection of life and property. This may include the availability of earth moving equipment or other approved means to control the tire fire. Any change in, or any new, local fire authority requirements that affect the requirements in this Article shall be reported to the Board by the operator within 30 days after their effective date. Any requirements approved by the local fire authority shall be subject to Board concurrence at the time of issuance or renewal of the permit.
  
- ☐ **14 CCR 17352-Site Security**
  - (a) Signs - for facilities open to the public a sign shall be posted at the facility entrance stating the name of the operator, operating hours, and site rules.
  - (b) Attendant - An attendant shall be present when the facility is open for business if the facility receives tires from persons other than the operator of the facility.
  - (c) Access - An access road to the facility must be maintained passable for emergency equipment and vector control vehicles at all times. Unauthorized access must be strictly controlled.
  
- ☐ **14 CCR 17353(a)-Vector Control**
  - (a) All waste tires shall be stored in a manner which prevents the breeding and harborage of mosquitoes, rodents, and other vectors by any of the following means:
    - (1) Cover with impermeable barriers other than soil to prevent entry or accumulation of precipitation; or
    - (2) Use of treatments or methods to prevent or eliminate vector breeding as necessary, provided the control program is approved as appropriate and effective by the local vector control authority, if such authority exists. If no local vector control authority exists, the local Environmental Health Department or other local agency with authority over vector control shall approve the vector control plan. Any control program approved by the local vector control authority shall be subject to Board concurrence at the time of issuance or renewal of the waste tire facility permit.
  
- ☐ **14 CCR 17354-Storage of Waste Tires Outdoors**
  - (a) Except as provided in subsection (c) waste tires shall be restricted to individual piles, which include stacks and racks of tires that do not exceed 5,000 square feet of contiguous area. Any pile shall not exceed 50,000 cubic feet in volume nor 10 feet in height. Piles shall not exceed 6 feet in height when within 20 feet of any property line or perimeter fencing. Waste tires shall not be located within 10 feet of any property line or perimeter fencing. The minimum distance between waste tire piles and between waste tire piles and structures that are located either on-site or off-site shall be as specified in Table I.